

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 05-81156

HON. LAWRENCE P. ZATKOFF

v.

TYRONE COMBS, JR.,

Defendant.

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**OPINION AND ORDER**

On December 7, 2011, the Court held a sentencing hearing for Defendant. As stated on the record and set forth in the Judgment, the Court imposed a sentence of 16 months for this case. At the hearing, as Defendant acknowledges, Defendant's counsel asked the Court to make the federal sentence concurrent with a state sentence Defendant was serving (but had almost completed). For a variety of reasons, including the fact that the parties grossly underestimated the applicable Guideline range (believing it to be 10-16 months rather than the 24-30 months the Court determined is applicable in this case), the Court denied that request and stated that the federal sentence was to be served consecutive to the state sentence. The Judgment in this case does not specify that the federal sentence was to be served consecutive to the state sentence Defendant was serving. As the Judgment did not specify that the federal sentence in this case was to be served concurrent with the state sentence, the Bureau of Prisons has informed Defendant that it will treat the federal sentence as one to be served consecutive to the state sentence.

Defendant has sent the Court two letters asking the Court to change the federal sentence to be a concurrent (rather than a consecutive) sentence (Docket #s 37 and 38, respectively), each entitled "Motion for Change of Federal Sentence."

As the Court intended that the federal sentence be served consecutive to the state sentence, there was no clerical error or other correction that should be made pursuant to Rule 35 or 36 of the Federal Rules of Criminal Procedure. Likewise, Defendant has asserted no basis under the Federal Rules of Criminal Procedure that would give the Court authority to change the federal sentence from a consecutive term to a concurrent term.

Accordingly, and for the reasons set forth above, the Court hereby DENIES both of Defendant's Motions for Change of Federal Sentence (Docket #s 37 and 38).

IT IS SO ORDERED.

s/Lawrence P. Zatkoff  
LAWRENCE P. ZATKOFF  
UNITED STATES DISTRICT JUDGE

Dated: September 5, 2012

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on September 5, 2012.

s/Marie E. Verlinde  
Case Manager  
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